

# Notice of Allowability

Application No.

09/826,697

Examiner

Justin M. Philpott

Applicant(s)

BAJ, MICHAEL

Art Unit

2665

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment, filed March 6, 2006.
2. ☒ The allowed claim(s) is/are 1-26, renumbered as claims 1-9, 12-25, 10, 11 and 26, respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Damon Rieth on March 9, 2006.
3. The application has been amended as follows:  
  
In claim 4, line 1, "sending" has been replaced with -- transmitting --.  
  
In claim 5, line 1, "sending" has been replaced with -- transmitting --.
4. The following is an examiner's statement of reasons for allowance: in the office action mailed October 5, 2005, claims 1-24 and 26 were indicated as allowable if rewritten to overcome objections, and claim 25 was rejected under 35 U.S.C. 112, first paragraph as failing to comply with the enablement requirement. In the amendment filed March 6, 2006, applicant has amended the claims to overcome the above-mentioned objections, and accordingly, claims 1-24 and 26 are allowed for the same reasons as discussed in the previous office action. That is, applicant's arguments in pages 11-17 in the amendment filed October 5, 2005 are persuasive. More specifically, in page 13 (October 5, 2005), applicant persuasively argues that the teachings of the prior art of Shaffer are distinguished from applicant's independent claims 1, 10, 16 and 20 at least because of the following reasons: 1) the audio component adjustments in Shaffer do not

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comprise “a diagnostic procedure to identify one or more possibly faulty components among a plurality of network resources that reside in a transmission path” as recited in applicant’s independent claims 1, 10, 16 and 20; and 2) Shaffer is directed to optimization of audio components, not to “determine a path ... [comprising] the one or more possibly faulty components” as recited in applicant’s independent claims 1, 10, 16 and 20. Additionally, in page 8 of the Remarks filed March 6, 2006, applicant has provided an extended passage from the originally filed specification which adequately enables the limitations recited in claim 25. Accordingly, in view of applicant’s Remarks (March 6, 2006), the rejection of claim 25 under 35, U.S.C. 112, first paragraph is withdrawn, and claim 25, which is dependent upon claim 1, is allowed for the same reasons discussed regarding claims 1-24 and 26.


5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Chi Pham can be reached on 571.272.3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Justin M Philpott



CHI PHAM

PERMISSORY PATENT EXAMINER

TECHNOLOGY CENTER

3/13/10